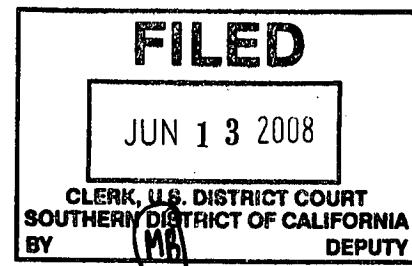


1 KAREN P. HEWITT
United States Attorney
2 LAWRENCE A. CASPER
Assistant United States Attorney
3 California State Bar No. 235110
United States Attorney's Office
4 Federal Office Building
880 Front Street, Room 6293
5 San Diego, California 92101
Telephone: (619) 557-7455

6 Attorneys for Plaintiff
7 UNITED STATES OF AMERICA



8

11 UNITED STATES OF AMERICA,) Criminal Case No. 08CR0724-WQH
12 Plaintiff,)
13 v.)
14 JOSE ELIAS CAMACHO-MELENDEZ,)
15 Defendant.)

**STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON**

17 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES
18 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Lawrence
19 A. Casper, Assistant United States Attorney, and defendant JOSE ELIAS CAMACHO-
20 MELENDEZ, by and through and with the advice and consent of defense counsel, Kasha K.
21 Pollreisz, Federal Defenders of San Diego, Inc., that:

22 1. Defendant has knowingly, intelligently and voluntarily entered into this stipulation
23 and agrees to participate in a full and complete inquiry by the Court to confirm that it has been
24 knowingly, intelligently and voluntarily entered.

27 a. Is an alien with no lawful right to enter or remain in the United States;
28 b. Entered or attempted to enter the United States illegally on or about February

27, 2008;

1 c. Was found in a vehicle driven by defendant at the Calexico, California West
2 Port of Entry (POE) and that defendant knew or acted in reckless disregard of the fact teach material
3 witness was an alien with no lawful right to enter or remain in the United States;

4 d. Was having others pay on her behalf \$4,500 to be brought into the United
5 States illegally and/or transported illegally to her destination therein; and,

6 e. May be released and remanded immediately to the Department of Homeland
7 Security for return to her country of origin.

8 2. After the material witnesses are ordered released by the Court pursuant to this
9 stipulation and joint motion, if defendant withdraws his guilty plea or does not plead guilty to the
10 charge set forth above, for any reason, defendant agrees that in any proceeding, including, but not
11 limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

12 a. The stipulated facts set forth in paragraph 1 above shall be admitted as
13 substantive evidence;

14 b. The United States may elicit hearsay testimony from arresting agents
15 regarding any statements made by the material witnesses provided in discovery, and such testimony
16 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against
17 interest of (an) unavailable witness(es); and,

18 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
19 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted
20 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant
21 waives the right to confront and cross-examine the material witness(es) in this case.

22 3. By signing this stipulation and joint motion, defendant certifies that defendant has
23 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
24 further that defendant has discussed the terms of this stipulation and joint motion with defense
25 counsel and fully understands its meaning and effect.

26

27

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
U.S. v. Jose Elias Camacho-Melendez

Based on the foregoing, the parties jointly move the stipulation into evidence and for the immediate release and remand of the above-named material witness(es) to the Department of Homeland Security for return to their country of origin.

4 It is STIPULATED AND AGREED this date.

Respectfully submitted,

KAREN P. HEWITT
United States Attorney

Dated: 11/10/08

LAWRENCE A. CASPER
Assistant United States Attorney

Dated: 6/10/08

KASHA K. POLLREISZ, ESQ.
Defense Counsel for
JOSE ELIAS CAMACHO-MELENDEZ

Dated: 6/10/08

Jose E camacho
JOSE ELIAS CAMACHO-MELENDEZ
Defendant

ORDER

2 Upon joint application and motion of the parties, and for good cause shown,

3 THE STIPULATION is admitted into evidence, and,

4 **IT IS ORDERED** that the above-named material witness(es) be released and remanded
5 forthwith to the Department of Homeland Security for return to their country of origin.

6 SO ORDERED.

7
8 Dated: 6/13/2008

Arthur Braverman

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
U.S. v. Jose Elias Camacho-Melendez 4